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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER
CASTILLO, and MONIQUE TRUJILLO
individually and on behalf of all other similarly
situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

CASE NO.: 4:20-cv-03664-YGR

**DECLARATION OF JOHN YANCHUNIS
IN SUPPORT OF PLAINTIFFS' MOTION
FOR CLASS CERTIFICATION**

Judge: Hon. Yvonne Gonzalez Rogers
Date: September 20, 2022
Time: 2:00 p.m.
Location: Courtroom 1 – 4th Floor

DECLARATION OF JOHN A. YANCHUNIS

I, John A. Yanchunis, declare as follows.

1. I am a partner with the law firm of Morgan and Morgan, P.A., counsel for Plaintiffs in this matter. I am an attorney at law duly licensed to practice before all courts of the State of Florida, and admitted *pro hac vice* in this case (Dkt. 20). I have personal knowledge of the matters set forth herein and am competent to testify.

2. I submit this Declaration in support of Plaintiffs' motion for class certification and appointment of Plaintiffs as representatives for the Class and the appointment of Morgan & Morgan, along with the firms of Boies Schiller Flexner LLP and Susman Godfrey as Counsel for the Class.

A. Counsel Have Invested Significant Resources into Investigating Google's Unlawful Behavior and Litigating this Case.

3. The three law firms representing Plaintiffs, Boies Schiller Flexner, LLP, Morgan & Morgan, and Susman Godfrey LLP (collectively, "Counsel"), have collectively invested significant resources into investigating and litigating this case since its inception. Counsel have invested substantial resources and time in the investigation of the factual baes and development of legal foundation for claims against Google. While ensuring efficiency, no expense has been spared in the litigation. Among other things, they have:

- Identified and investigated the technological means by which Google surreptitiously and illegally tracks consumers.
- Analyzed Google's disclosures regarding private browsing mode.
- Investigated past allegations of Google's violations of privacy interests.
- Consulted with technology experts to assist in developing the case.
- Researched and analyzed potential legal claims against Google.
- Evaluated numerous potential class representatives.

4. Since filing the initial complaint, Counsel has diligently pursued discovery into Google's misconduct. Google initially proposed only ten document custodians. Through a combination of negotiations and Court intervention, Counsel secured an additional 32 Google

1 custodians. Counsel similarly secured key search terms, including “Incognito,” and a cross-use
 2 and discovery coordination order with the *Calhoun v. Google* case, 4:20-cv-05146-YGR-SVK.
 3 Counsel’s efforts, including the filing of 28 discovery dispute letter briefs and/or motions to
 4 compel, have resulted in Google producing almost one million documents. Counsel also served
 5 235 RFPs, 40 Interrogatories and 75 RFAs, having successfully moved to increase their limit on
 6 Interrogatories and RFAs, and Counsel also successfully moved for an increase to the
 7 presumptive limit of ten depositions per side, resulting in Plaintiffs taking 25 depositions.
 8 Counsel at the same time vigorously pursued production of relevant data, working with the
 9 Special Master, and Counsel retained and onboarded 29 consultants and experts to assist with
 10 day-to-day review of discovery and prepare reports. Counsel also overcame two motions to
 11 dismiss filed by Google (Dkts. 113, 363), and successfully moved to amend the Complaint to
 12 change their proposed class definitions to cover additional Google products and services. Dkt.
 13 504. Counsel also vigorously pursued discovery into Google’s Incognito detection bits, revealed
 14 for the first time just before and after the close of fact discovery, and successfully moved for
 15 sanctions based on Google’s discovery misconduct related to those bits. Dkt. 588.

16 **B. Morgan & Morgan Has Substantial Expertise in Privacy Litigation, High-**
 17 **Profile Class Actions, and Litigating Complex Technology Cases Against**
Google.

18 5. Morgan & Morgan brings to bear unparalleled expertise litigating privacy class
 19 actions. Morgan & Morgan is a leading civil trial law firm representing consumers and
 20 commercial clients nationwide. With over 800 lawyers, and more than 3,000 non-lawyer
 21 employees, Morgan & Morgan is the largest plaintiffs’ firm in the nation. Morgan & Morgan
 22 maintains over offices throughout the United States, including in San Francisco. Among its
 23 lawyers are former state attorney generals and present and former members of various state
 24 legislatures. It is self-funded and brings the financial resources and manpower needed to litigate
 25 this case.

26 6. Morgan & Morgan has a dedicated Complex Litigation Group staffed with
 27 lawyers, paralegals, and retired FBI agents serving as investigators committed to representing
 28 consumers in complex litigation, MDL proceedings and class action cases throughout the

country. It has achieved many remarkable results in class litigation, including the settlement of *In re Black Farmers Discrimination Litigation*, no. 08-0511 (D.C. Oct. 27, 2017), where one of its partners served as co-lead. The case resulted in a settlement with the United States Government in the amount of \$1.2 billion for African American farmers who had been systematically discriminated against on the basis of race, in violation of the Fifth Amendment to the United States Constitution, the Equal Credit Opportunity Act, Title VI of the Civil Rights Act, and the Administrative Procedure Act. Morgan & Morgan has assembled a talented team of lawyers in its class action practice group.

7. The Morgan and Morgan lawyers working on this matter include myself, Michael F. Ram, Keith Mitnik, Jean Sutton Martin, Ryan J. McGee, Marie Noel Appel, Ra. O. Amen, and David Reign, a former FBI agent who came to work for me after the day of his retirement from the FBI as an Assistant Special Agent in Charge.

8. I, **John A. Yanchunis** lead the class action section of the law firm. My practice—which began after completing a two-year clerkship with United States District Judge Carl O. Bue, Jr., S. D. Tex.—has concentrated on complex litigation and spans over 40 years, including consumer class actions for more than two-thirds of that time.

9. Alongside my experience in the area of privacy, I have also served as lead, co-lead, and class counsel in numerous national class actions, including multi-district litigation, involving a wide range of subjects affecting consumers, including antitrust, defective products, life insurance, annuities, and deceptive and unfair acts and practices. In 2014 and 2020, he was recognized by the National Law Journal as a trailblazer in the area of privacy litigation, and in 2020, he was recognized by LAW 360 for the second year in a row as one of 4 MVPs in the area of privacy and cyber security litigation. For his work in the area of privacy litigation, he was awarded Florida Lawyer of the Year in 2020 by The Daily Business Review.

10. As a result of my experience in an earlier part of my career in insurance and complex litigation, beginning in 2005, I was selected by Tom Gallagher, the Chief Financial Officer for the state of Florida and a member of the Florida Cabinet, to serve as lead counsel for the Florida Department of Financial Services and the Florida Department of Insurance

1 Regulation (the insurance regulators of Florida) in their investigations of the insurance industry
 2 on issues concerning possible antitrust activity and other possible unlawful activities regarding
 3 the payment of undisclosed compensation to insurance brokers. I served as lead regulator
 4 counsel and worked with a core group of state Attorneys General from the National Association
 5 of Attorneys General, which were selected to conduct the investigations. The insurance regulator
 6 for Florida was the only insurance regulator in the group. The litigation that was filed and the
 7 related investigations netted millions of dollars in restitution for Florida consumers and resulted
 8 in significant changes in the way commercial insurance is sold in Florida and across the country.

9 11. During my career, I have tried numerous cases in state and federal courts,
 10 including class cases, and one of the largest and longest insurance coverage cases in U.S. history,
 11 which was filed in 1991 by the Celotex Corporation and its subsidiary, Carey Canada, Inc.
 12 During the seventeen years the case pended, I he served as lead counsel for several insurance
 13 companies, regarding coverage for asbestos and environmental claims. The case was tried in
 14 three phases over several years beginning in 1992. I was also lead counsel for these parties in
 15 the subsequent appeals that followed a judgment in favor of my clients.

16 12. I began my work in privacy litigation in 1999 with the filing of *In re Doubleclick*
 17 *Inc. Privacy Litigation*, 154 F. Supp. 2d 497 (S.D.N.Y. 2001), alleging privacy violations based
 18 on the placement of cookies on hard drives of internet users. Beginning in 2003, I served as co-
 19 Lead Counsel in the successful prosecution and settlement of privacy class action cases
 20 involving the protection of privacy rights of more than 200 million consumers under the Driver's
 21 Protection Privacy Act (DPPA) against the world's largest data and information brokers,
 22 including Experian, R.L. Polk, Acxiom, and Reed Elsevier (which owns Lexis/Nexis). *See*
 23 *Fresco v. Automotive Directions, Inc.*, No. 03-61063-JEM (S.D. Fla.), and *Fresco v. R.L. Polk*,
 24 No. 07-cv-60695-JEM (S.D. Fla.). Subsequently, I served as co-Lead Counsel in the DPPA class
 25 cases, *Davis v. Bank of America*, No. 05-cv-80806 (S.D. Fla.) (\$10 million class settlement), and
 26 *Kehoe v. Fidelity Fed. Bank and Trust*, No. 03-cv-80593 (S.D. Fla.) (\$50 million class
 27 settlement).

28 13. I have been appointed and served in leadership positions a number of multidistrict

litigation in the area of privacy and data breaches: *In re: Capital One Consumer Data Security Breach Litigation*, No. 1:19-MD-2915-AJT (E.D. Va.) (Co- Lead) (settlement of a class for \$190 million has been preliminarily approved); *In re Yahoo! Inc. Customer Data Security Breach Litigation*, No. 5:16-MD-02752-LHK (N.D. Cal.) (“Yahoo”) (Lead Counsel) (Court approved \$117,500,000.00 common fund settlement for approximately 194 million US residents and 270,000 Israeli citizens, now on appeal to the 9th Circuit by two objectors); *In re The Home Depot, Inc. Consumer Data Sec. Data Breach Litig.*, No. 1:14-md-02583-TWT (N.D. Ga.) (Co- Lead Counsel) (final judgment entered approving a settlement on behalf of a class of 40 million consumers with total value of \$29,025,000); *In Re: Equifax, Inc. Customer Data Security Breach Litigation*, 1:17-md-2800-TWT (N.D. Ga.) (member of the Plaintiffs’ Steering Committee) (final judgment entered and upheld by the 11th Circuit approving \$380.5 million fund for 145 million consumers); *In re: U.S. Office of Personnel Management Data Security Breach Litigation*, 1:15-mc-01394-ABJ (D.D.C.) (“OPM”) (member of the Executive Committee) (settlement of a class for \$63 million has been preliminarily approved); *In re Target Corp. Customer Data Sec. Breach Litig.*, MDL No. 2522 (D. Minn.) (Executive Committee member) (final judgment approving a settlement on behalf of a class of approximately 100 million consumers).

14. My court-appointed leadership experience in non-MDL, data breach class actions is likewise significant, and to just name a few: *Adkins v. Facebook, Inc.*, No. 3:18-cv-05982 (N.D. Cal.) (Co-Lead Counsel) (“Facebook”) (consolidated complaint filed in February 2019; motion for class certification fully briefed and argued on November 6, 2019, class certified for 8 million residents, subsequently settlement of the class was approved by the court); *Walters v. Kimpton Hotel & Restaurant*, No. 3:16-cv-05387 (N.D. Cal.) (“Kimpton”) (Lead Counsel) (class action settlement final approval order entered July 11, 2019); and *In re: Arby’s Restaurant Group, Inc. Data Security Litigation*, Nos. 1:17-cv-514 and 1:17-cv-1035 (N.D. Ga.) (co-Liaison Counsel) (final approval of a class settlement entered June 6, 2019); and *Jackson, et al., v. Wendy’s International, LLC*, No. 6:16-cv-210-PGB (M.D. Fla.) (final approval of a class settlement entered February 26, 2019); *Henderson v. Kalispell Regional Healthcare*, No. CDV-

1 19-0761 (Montana Eighth Judicial Court – Cascade County) (final approval of class settlement
 2 entered January 5, 2021); *In re: Citrix Data Breach Litigation*, No. 19-cv-61350 (S.D. Fla.)
 3 (preliminary approval of class action settlement entered on January 26, 2021); *Kuss v. American*
 4 *HomePatient, Inc.*, et al., 18-cv-2348 (M.D. Fla.) (final approval of class action settlement
 5 entered on August 13, 2020); *Fulton-Green v. Accolade, Inc.*, 18-cv-274 (E.D. Pa.) (final
 6 approval of class action settlement entered September 23, 2019); *Nelson v. Roadrunner*
 7 *Transportation Systems, Inc.*, 18-cv-7400 (N.D. Ill.) (final approval of class action settlement
 8 entered September 15, 2020).

9 15. My experience in privacy litigation extends far beyond simply briefing threshold
 10 issues and negotiating settlements. Rather, I have personally deposed dozens of corporate
 11 representatives, software engineers, cyber professionals and CISOs in major data breach cases
 12 such as Capital One, Yahoo, Kimpton, and Facebook. In addition, I have defended experts used
 13 in these cases and also deposed defense liability and damage experts.

14 16. As result of my experience in the area of class litigation and ethics, I have served
 15 as an expert for The Florida Bar on ethical issues arising in class action litigation.

16 17. I am a frequent lecturer on privacy and class litigation nationally and
 17 internationally, including at international conferences, having presented at the University of
 18 Haifa's 2019 Class Action Conference, in Haifa, Israel, attended by lawyers, judges and law
 19 professors from around the world. In 2020 I lectured on data privacy in Mexico, and in
 20 November 2020 and 2021 I presented on data privacy to an international group of lawyers,
 21 judges, and professors at a symposium in London sponsored by the London Law Society. I am
 22 scheduled to speak on privacy and class action issues in 2022 at two different symposiums in
 23 Amsterdam sponsored by universities and one London, and two seminars on privacy and cyber
 24 security issues in the United States.

25 18. **Michael F. Ram.** Mr. Ram is a consumer class action lawyer with 40 years of
 26 experience. He graduated *cum laude* from Harvard Law School in 1982. He has co-tried several
 27 class action trials and frequently lectures on class trials. In 1992 he was a co-recipient of the Trial
 28 Lawyer of the Year Award given by Trial Lawyers for Public Justice for *National Association of*

1 *Radiation Survivors v. Walters* No. 83-c-1861 (N.D. Cal.) (tried to class-wide judgment on
 2 remand from Supreme Court). Mr. Ram recently settled the matter of *McAdams v. Monier, Inc.*,
 3 182 Cal. App. 4th 174, which he tried to a class verdict and defended on appeal for a \$44 million
 4 resolution.

5 19. From 1993 through 1997, Mr. Ram was a partner with Lief, Cabraser, Heimann
 6 and Bernstein where he represented plaintiffs in several major class actions, including: *Cox v.*
 7 *Shell*, Civ. No 18,844 (Obion County Chancery Court, Tenn.) national class of six million owners
 8 of property with defective polybutylene plumbing systems; *In re Louisiana-Pacific Inner-Seal*
 9 *Litigation*, No. 95-cv-879 (D. Oregon) (co-lead counsel) national class of homeowners with
 10 defective siding; *ABS Pipe Litigation*, Cal. Judicial Council Coordination Proceeding No. 3126
 11 (Contra Costa County) national class of homeowners.

12 20. In 1997, Mr. Ram founded Levy, Ram & Olson which became Ram & Olson and
 13 then Ram, Olson, Cereghino & Kopczynski. He was co-lead counsel in many consumer class
 14 actions including a national class of half a million owners of dangerous glass pane gas fireplaces
 15 in *Keilholtz et al. v. Superior Fireplace Company*, No. 08-cv-00836 (N.D. Cal. 2008). He was
 16 co-lead counsel for plaintiffs in *Chamberlan v. Ford Motor Company*, No. 03-cv-2628 (N.D.
 17 Cal.), a class action involving defective intake manifolds that generated four published opinions,
 18 including one by the Ninth Circuit, 402 F.3d at 950, and settled one court day before the class
 19 trial. He was also co-counsel for plaintiffs in a number of other consumer class actions, including
 20 *Falk v GM* 496 F. Supp. 2d 1088 (2007) which became *In re General Motors Corp. Product*
 21 *Liability Lit.* MDL. No. 1896 (W.D. Wash.); *Richison v. American Cemwood Corp.*, San Joaquin
 22 Superior Court Case No. 005532; *Williams v. Weyerhaeuser*, San Francisco Superior Court Case
 23 No. 995787; *Naef v. Masonite*, Mobile County, Alabama Circuit Court Case No. CV-94-4033;
 24 *Hanlon v. Chrysler Corp.*, 150 F.3d 1011 (9th Cir. 1998); *McAdams v. Monier, Inc.* (2010) 182
 25 Cal. App. 4th 174 (reversing denial of class certification in consumer class action); *Gardner v.*
 26 *Stimson Lumber Co.* (King County Wash. No. 2-17633-3-SEA); *Rosenberg v. U-Haul* (Santa
 27 Cruz Superior Ct. No. CV-144045 (certified consumer class action for false and deceptive
 28 conduct; tried successfully to judgment); *In re Google Buzz User Privacy Litigation*, No. 10-cv-

00672-JW (N.D. Cal. 2011) (international class action settlement for false and deceptive conduct); *Whitaker v. Health Net of California, Inc., and International Business Machines Corp.*, No. 2:11-cv-0910 KJM DAD (E.D. Cal.) (electronic privacy class action under the California Confidentiality of Medical Information Act); and *Milligan v. Toyota Motor Sales, U.S.A., Inc.*, United States District Court, N.D. Cal. Case No. C09-05418-RS; *In re Kitec Plumbing System Products Liab. Litigation MDL No 2098*, N.D. Texas, No. 09-MD-2098; and *Ehret v. Uber Techs., Inc.*, 148 F. Supp. 3d 884 (N.D. Cal. Judge Chen).

21. From 2017 to 2020, Mr. Ram was a partner at Robins Kaplan LLP. In August, 2020, Mr. Ram joined Morgan & Morgan to open the San Francisco office. He is currently co-lead counsel in numerous consumer class actions, including *Gold v. Lumber Liquidators*, N.D. Cal. No. 14-cv-05373-RS, a certified multistate class action involving bamboo floors, and *Fowler v. Wells Fargo*, N.D. Cal. No. 3:17-cv-02092-HSG, a class action involving interest charges that settled for \$30 million. In addition, he is also currently serving on the Plaintiffs' Steering Committee in the *In re Philips CPAP MDL Litigation*, where he is co-chair of the Law and Briefing Committee.

22. **Jean Sutton Martin.** Ms. Martin presently serves by appointment as interim co-lead counsel in *Combs, et al. v. Warner Music Group*, Case No. 1:20-cv-07473-PGG (S.D.N.Y.), *In re Morgan Stanley Data Security Litigation*, 1:20-cv-05914 (S.D.N.Y.) (preliminary approval granted for \$68 million settlement for 15 million class members), *In Re: Ambry Genetics Data Breach Litigation*, No. 20-cv-00791 (C.D. Cal.), and. She also serves as a member of the Plaintiffs' Steering Committee for the cases proceeding against LabCorp, Inc. in *In re: American Medical Collection Agency Data Breach Litigation*, 19-md-2904 (D. N.J.). She is a member of the Plaintiffs' Steering Committee in *In re: Smith & Nephew Birmingham Hip Resurfacing (BHR) Hip Implant Products Liability Litigation*, No. 17-md-2775 (D. Md.) and *In re: Allergan Biocell Textured Breast Implant Products Liability Litigation*, No. 19-md-2921 (D. N.J.).

23. In a case in which she serves as interim co-lead counsel, Ms. Martin argued a motion for class certification which resulted in the first order in the country granting Rule 23(b)(3) certification in a consumer payment card data breach. *In re Brinker Data Incident Litig.*,

1 No. 3:18-CV-686-TJC-MCR, 2021 WL 1405508 (M.D. Fla. Apr. 14, 2021).

2 24. She has served in leadership positions in many consumer class actions and
 3 consolidated proceedings in federal courts around the country, including *inter alia*: *Aguallo, et*
 4 *al. v. Kemper Corp., et al.*, Case No.: 1:21-cv-01883 (N.D. Ill.) (data breach settlement valued at
 5 over \$17.5 million) (co-lead counsel); *Gordon, et al. v. Chipotle Mexican Grill, Inc.*, No. 17-cv-
 6 01415 (D. Colo.) (data breach) (co-lead counsel); *Linnins v. HAECO Americas, Inc., et al.*, No.
 7 16-cv-486 (M.D.N.C.) (employee data disclosure) (co-lead counsel); *Torres v. Wendy's*
 8 *International, LLC*, No. 6:16- cv-210 (M.D. Fla.) (data breach) (class counsel); *Fuentes, et al. v.*
 9 *UniRush, LLC, et al.*, No. 1:15- cv-08372 (S.D.N.Y.) (disruption in servicing of financial
 10 accounts) (co-lead counsel); *Lewis, et al., v. Green Dot Corp., et al.*, No. 2:16-cv-03557 (C.D.
 11 Cal.) (disruption in servicing of financial accounts) (class counsel); *Brady, et al. v. Due North*
 12 *Holdings, LLC, et al.*, No. 1:17-cv-01313 (S.D. Ind.) (employee data disclosure) (class counsel);
 13 *Foreman v. Solera Holdings, Inc.*, No. 6:17-cv-02002 (M.D. Fla.) (employee data disclosure)
 14 (class counsel); *In Re: Outer Banks Power Outage Litigation*, No. 4:17-cv-141 (E.D.N.C.)
 15 (extended island power outage due to defective construction practices) (class counsel); and,
 16 *McCoy v. North State Aviation, LLC, et al.*, No. 17- cv-346 (M.D.N.C.) (WARN Act violations)
 17 (class counsel).

18 25. In addition to consumer class actions, Ms. Martin has practiced in the areas of
 19 mass tort and catastrophic personal injury litigation. Prior to joining Morgan and Morgan, Ms.
 20 Martin ran her own law firm concentrating in consumer class actions and mass tort litigation. She
 21 also has served as an adjunct professor at Wake Forest University School of Law.

22 26. Ms. Martin received her Juris Doctor degree from Wake Forest University School
 23 of Law in 1998, where she served as Editor-in-Chief of the *Wake Forest Law Review*. She
 24 obtained eDiscovery certification from the eDiscovery Training Academy at Georgetown Law
 25 Center in 2017. Ms. Martin graduated from Wake Forest University with a Bachelor of Science
 26 in Mathematical Economics in 1989. She earned a Master of International Business from the
 27 University of South Carolina in 1991.

28 27. Ms. Martin has been honored with the prestigious “AV” rating by Martindale-

Hubbell. In 2016, Ms. Martin was selected by her peers as the foremost Litigation attorney in the State of North Carolina for *Business North Carolina Magazine's Legal Elite*, gaining membership in the *Legal Elite* Hall of Fame. In 2015, she was inducted as a Fellow of the Litigation Counsel of America, a prestigious trial lawyer honorary society comprised of less than one-half of one percent of American lawyers. Fellows are selected based upon excellence and accomplishment in litigation, both at the trial and appellate levels, and superior ethical reputation. For upholding the highest principles of the legal profession and for outstanding dedication to the welfare of others, Ms. Martin has also been selected as a Fellow of the American Bar Foundation, an honorary legal organization whose membership is limited to one third of one percent of lawyers in each state. Since 2012, she has been selected to the Super Lawyers list for North Carolina in the areas of mass torts and class actions, with repeated selection to the Top 50 Women North Carolina list since 2014. Additionally, Ms. Martin has been named by National Trial Lawyers to the Top 100 Trial Lawyers, Top 50 Class Action Lawyers, and Top 50 Mass Torts Lawyers for North Carolina.

28. Before entering law school, Ms. Martin worked with the sales finance team of Digital Equipment Company in Munich, Germany developing sales forecasts and pricing models for the company's expansion into the Eastern European market after the fall of the Berlin wall. She also worked as a practice management consultant for a physician consulting group and as a marketing manager for an international candy manufacturer where her responsibilities included product development, brand licensing, market research, and sales analysis.

29. Ms. Martin is a member of the North Carolina bar, having been admitted in 1998. She is also admitted to practice before the United States Supreme Court, the United States Court of Federal Claims, the United States Court of Appeals for the Fourth Circuit, the Western, Middle, and Eastern Districts of North Carolina, and the United States District Court of Colorado.

30. **Keith Mitnik.** Mr. Mitnik is senior trial counsel for Morgan & Morgan. He has been trying civil jury trials since being admitted to the Florida Bar in 1984. In his position at Morgan & Morgan, all he does is try cases that others have worked up. He averages more than one jury trial per month and has kept up that pace for many years. He tries every kind of civil

jury trial for the plaintiff's side as first chair, including class actions, product liability, medical malpractice, personal injury, premises liability, defamation. He has tried multiple suits against cigarette companies (RJ Reynolds and Phillip Morris). He also tries many commercial litigation jury trials. He has taken on CNN and Time Magazine in a landmark defamation case in Washington DC. Shortly before Covid slowed things down, he tried a class action case in Chicago involving testosterone supplements. Even with Covid interfering with trials in the last year, Keith has tried 8 jury trials and is set to try several more before the end of the year. He just finished a 5-week trial in California against Union Pacific Railroad. Before that, he tried a case against Major League Baseball in NYC over a licensing agreement. He is lead Trial Counsel for the first class action trial involving Juul E-Cigarettes against Phillip Morris set for next summer. He has tried approximately 200 jury trials. He tries cases all over the country. When not in trial, Mr. Mitnik teaches trial advocacy. He has been the featured speaker for plaintiffs lawyers' associations in many states. Most recently he was a featured speaker in San Diego at what was reported to be the largest plaintiffs lawyers' seminar in history, with thousands in attendance. He is a bestselling author on trial skills. His two books are: Don't Eat the Bruises and Deeper Cuts (the latter being released earlier this month).

31. **Ryan J. McGee.** Mr. McGee studied business economics and history at the University of Florida, where he was a teaching assistant for technology classes in the business school, and received his law degree from Stetson University College of Law, where he was an editor on the *Stetson Law Review*, a research assistant for antitrust and consumer protection laws, and a teaching assistant for Stetson's trial advocacy program.

32. Mr. McGee began his legal career as a state-appointed prosecutor, where he tried over 50 jury trials to verdict, mostly felonies, as well as a special prosecutor appointed to investigate and prosecute police officers' deadly use-of-force and corruption within various law enforcement agencies. He also served as a law clerk for two years for the Honorable Elizabeth A. Kovachevich, the former Chief United States District Judge, Middle District of Florida. Before joining Morgan & Morgan, His practice involved complex business disputes, antitrust, trade secret, data security, and class action investigations and defense-side litigation in state and federal

1 courts across the country.

2 33. Since shifting his focus entirely to consumer class action representation, Mr.
 3 McGee has been selected as a Florida Super Lawyer Rising Star in 2018 and 2019 in the field of
 4 Class Actions, and has extensive privacy and consumer fraud class action experience, having
 5 actively participated in the following litigations: *In re Morgan Stanley Data Security Litigation*,
 6 No. 20-cv-5914-AT (S.D.N.Y.); *Adkins v. Facebook, Inc.*, No. 3:18-cv-05982-WHA (N.D. Cal.);
 7 *Pfeiffer et al. v. RadNet, Inc.*, No. 2:20-cv-09553-RGK (C.D. Cal.); *Ford et al. v. [24]7.ai, Inc.*,
 8 No. 5:18-cv-02770-BLF (N.D. Cal.); *In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, No.
 9 16-md-02752-LHK (N.D. Cal.); *In re Equifax, Inc. Customer Data Sec. Breach Litigation*, No.
 10 1:17-md-02800 (N.D. Ga.); *In re: U.S. Office of Personnel Management Data Security Breach*
 11 *Litigation*, 1:15-mc-01394-ABJ (D.D.C.); *Henderson v. Kalispell Regional Healthcare*, No.
 12 CDV-19-0761 (Montana Eighth Judicial Court – Cascade County); *Morrow v. Quest*, No. 2:17-
 13 cv-0948 (CCC) (JBC) (D.N.J.); *In re Google Plus Profile Litigation*, No. 5:18-cv-06164 EJD
 14 (N.D. Cal.); *Stoll et al. v. Musculoskeletal Institute, Chartered d/b/a Florida Orthopaedic*
 15 *Institute*, No. 8:20-cv-01798-CEH (M.D. Fla.); and *Kuss v. American HomePatient, Inc., et al.*,
 16 No. 8:18-cv-02348 (M.D. Fla.).

17 34. Mr. McGee was admitted to the Florida Bar in 2009 and is also admitted to
 18 practice in the Northern, Middle, and Southern Districts of Florida, the District of Colorado, and
 19 the Ninth Circuit Court of Appeals.

20 35. **Marie Noel Appel.** Ms. Appel has dedicated her career to representing consumers
 21 in both individual and class action cases involving claims under consumer protection laws and
 22 other statutory and common law claims. She earned a B.A. in French from San Francisco State
 23 University in 1992 and graduated from University of San Francisco School of Law in 1996,
 24 where she served as an Associate Literary Editor of the University of San Francisco Maritime
 25 Law Journal.

26 36. For most of her career, Ms. Appel has been in private practice litigating class
 27 claims related to defective products, mortgage fraud/Truth in Lending violations, unfair business
 28 practices relating to manufactured home sales, interest overcharges by the United States on

1 military veterans' credit accounts, and statutory violations by the United States relating to offset
2 of debts beyond the limitations period.

3 37. From 2012 to 2019, Ms. Appel left private practice to become the Supervising
4 Attorney of the Consumer Project at the Justice & Diversity Center of the Bar Association of San
5 Francisco which provides free legal services to low-income persons facing consumer issues.

6 38. In April 2019, Ms. Appel returned to private practice as Counsel at Robins
7 Kaplan, LLP, then joined Morgan & Morgan in August 2020 where she focuses on class action
8 litigation.

9 39. In addition to her legal practice, Ms. Appel is an Adjunct Professor at Golden
10 Gate University School of Law in San Francisco where she teaches legal research and writing,
11 and from 2011 to 2018 supervised students at the Consumer Rights Clinic, in which students
12 performed legal work at the Justice & Diversity Center's Consumer Debt Defense and Education
13 Clinics. Prior to joining the Justice & Diversity Center, Ms. Appel regularly provided pro bono
14 assistance for low-income consumers facing debt collection lawsuits, through the Justice &
15 Diversity Center in San Francisco which, on multiple years, designated her as one of the
16 Outstanding Volunteers in Public Service. Ms. Appel has also provided trainings to attorneys
17 regarding consumer collection defense and related matters, focusing recently on a state-wide
18 training relating to representing low-income individuals in lawsuits for unpaid back rent resulting
19 during the COVID-19 pandemic.

20 40. Ms. Appel is admitted to practice in the Ninth Circuit Court of Appeals, and
21 United States District Courts in the Central District of California; the Eastern District of
22 California; the Northern District of California; and the Southern District of California.

23 41. ***Ra O. Amen.*** Mr. Amen was raised in both the California Bay Area and
24 Massachusetts. In 2005, Ra graduated from Stanford University with a B.A. in Economics. After
25 graduating, Ra worked as a Peace Corps volunteer in Morocco teaching English as a second
26 language and business skills to local artisans. Before entering law school, Ra worked for several
27 years in education and in business development for a mobile technology startup. In 2017, he
28 obtained his Juris Doctor degree with Honors from Emory University School of Law. While at

42. ***David Reign.*** Mr. Reign is the former Assistant Special Agent in Charge of the Tampa FBI Field office, with nearly 25 years of investigative experience. He has investigated and managed some of the FBI's most complex white-collar crime cases, with an emphasis on health care fraud, public corruption, and financial crimes. As Deputy Chief of the Enron Task Force, he led a team of investigators and analysts in the successful investigation and prosecution of several executives of the Enron Corporation. He received the Attorney General's Award for Exceptional Service for his work on the Enron matter.

43. Morgan & Morgan, along with our co-counsel Boies Schiller Flexner LLP and Susman Godfrey LLP have demonstrated a commitment to this case on behalf of Plaintiffs and the Class they seek to represent, and will continue to advocate for Plaintiff and the Class and expend the necessary resources to ensure a just result of them.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 20th day of June, 2022, at Tampa, Florida.

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JOHN YANCHUNIS' DECL. ISO CLASS CERTIFICATION NO. 4:20-CV-03664-YGR